

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA DENYING THE APPEAL AND UPHOLDING THE DECISION OF THE ARCHITECTURAL BOARD OF REVIEW'S PRELIMINARY APPROVAL OF THE SITE PLAN AND PROJECT DESIGN FOR THE SANTA BARBARA COTTAGE HOSPITAL FOUNDATION WORKFORCE HOUSING PROJECT LOCATED AT 601 E. MICHELTORENA STREET

WHEREAS, pursuant to Resolution No. 06-103 dated December 20, 2006, the Council of the City of Santa Barbara denied an Appeal and upheld the decision of the Planning Commission to certify the Final Environmental Impact Report and authorize the required land use permits and City and state law approvals necessary to construct the Santa Barbara Cottage Hospital Foundation Workforce Housing Project located at 601 E. Micheltorena Street and a copy of said Council Resolution No. 06-103 is attached hereto as Exhibit A and, by this reference, incorporated as though fully set forth herein;

WHEREAS, pursuant to Council Resolution No. 06-103, the Council *inter alia* approved a Tentative Subdivision Map for a one lot condominium subdivision necessary to create 115 residential condominium units which is hereinafter referred to as the "2006 Approved Project;"

WHEREAS, the 2006 Approved Project involves the demolition of the existing St. Francis Hospital complex and construction of 115 residential condominium units on 5.9 acres. The mix of residential unit types would include, 10 one-bedroom units, 67 two-bedroom units, and 38 three-bedroom units which will be marketed to employees of Cottage Hospital;

WHEREAS, the original Project description submitted to the City and the City Council conditions of approval require that 81 of the Project units be sold to employees of Santa Barbara Cottage Hospital at prices within the City's structure for affordable units and that such units permanently deed restricted to limit ownership by qualified employees of Cottage Hospital;

WHEREAS, following the City Council's December 2006 denial of the Planning Commission Appeal and approval of the 2006 Approved Project, the 2006 Approved Project was required by the conditions of approval and the City's Municipal Code to undergo review of the Project design and architecture by the City's Architectural Board of Review ("ABR");

WHEREAS, on January 28, 2008, after 13 separate public hearings where the 2006 Approved Project design, site plan, and architecture was reviewed by the ABR, the ABR granted Preliminary Design Approval for the Project's designated site plan and for the Project's overall design and architecture contingent only upon a positive "Substantial Conformity Determination" being issued by the Community Development Director for the Project;

WHEREAS, under the City's approved ABR Guidelines, Preliminary Design Approval by ABR constitutes the substantive ABR design approval of the Project on its overall design merits and is, therefore, appealable to City Council on that basis;

WHEREAS, under the City's approved ABR Guidelines, a Final ABR Design Approval of the Project plans is still required prior to Cottage Hospital being issued the building permits which are necessary for the Project; however, Final ABR Design Approval must be granted by the ABR if the completed working drawings for the Project are in "substantial conformance" with the plans which received Preliminary ABR design Approval;

WHEREAS, the ABR Preliminary Approved Project differs from the 2006 Approved Project as a consequence of two matters:

1. The Project has been revised to allow for the refinement and improvement of the 2006 Approved Project site plan and the project's final architectural design.
2. During this refinement process, discrepancies were found in the 2006 Approved Project statistics in that what was shown on the 2006 Approved Project plans was not accurately reflected in the project statistics shown on the 2006 Approved Project plans;

WHEREAS, the ABR's Preliminary Approved Project differs from the 2006 Approved Project in the following manner:

- The Project's site plan was revised in the following manner:
 - Created an additional open space area on the upper portion of the project site.
 - Reconnected the lower and upper portion of the project site.
 - Created a "woonerf" to provide a better street design.
 - Reoriented units toward the street.
 - Eliminated one row of buildings on lower portion of project site.
 - Eliminated one building fronting Micheltorena Street, relocated the fire turnaround and improved the pedestrian entrance at the corner of Micheltorena and California Streets.
 - Reduced the number of "modifications".
 - Enhanced and enlarged the courtyard connection.
 - Connected the underground parking garages.

- There was an increase in the net floor area for the dwelling units from 127,807* sq. ft. to 132,920 sq. ft., an increase of 5,113 sq. ft. [The 2006 Approved Project's statistics reflected 121,310 sq. ft. of net floor area for the dwelling units.]
- There was an increase in the net floor area for the garages/storage/mechanical from 65,144* sq. ft. to 66,446 sq. ft., an increase of 1,302 sq. ft. [The 2006 Approved Project's statistics reflected 64,496 sq. ft. of net floor area for the garages/storage/mechanical space.]
- The number of buildings on the project site were reduced from 49 to 43 buildings.
- There was an increase in the open space area from 113,418* sq. ft. to 114,259 sq. ft., an increase of 841 sq. ft. [The 2006 Approved Project's statistics reflected 101,215 sq. ft. of total open space.]
- The overall building footprint was reduced from 85,650* sq. ft. to 81,373 sq. ft., a decrease of 4,277 sq. ft. [The 2006 Approved Project's statistics reflected 80,771 sq. ft. of overall building footprint.]
- The total paved areas increased from 91,364* sq. ft. to 99, 576 sq. ft., an increase of 8,212 sq. ft. [The 2006 Approved Project's statistics reflected 85,334 sq. ft. of total paved areas.]
- The landscaped area decreased from 81,732* sq. ft. to 77,797 sq. ft., a decrease of 3,935 sq. ft. [The 2006 Approved Project's statistics reflected 92,641 sq. ft. of landscaped area.]
- The amount of required grading was reduced from 20,300 CY of cut, 16,100 CY of fill to 14,500 CY of cut, 12,100 CY of fill, a decrease of 5,800 CY of cut and 4,000 CY of fill.
- Six of the 23 distance between building modifications were eliminated compared to the number of modifications approved as part of the 2006 Approved Project.
- The distances for 13 of the 23 *distance between building* modifications increased bringing these modifications more in compliance with the City's Zoning Ordinance requirement.
- The distance of four of the 23 *distance between building* modifications were reduced making these modifications less conforming with the Zoning Ordinance requirement.
- The Preliminary Approved Project eliminated the need for one of the six *front yard* modifications approved as part of the 2006 Approved Project.

- The setback distance for the remaining five *front yard* modifications increased in size bringing these modifications more into compliance with the City's Zoning Ordinance requirement;

*These numbers represents the corrected 2006 Approved Project statistics.

WHEREAS, on February 7, 2008, ABR's January 28, 2008 decision to grant Preliminary Approval of the Revised Project was appealed by attorney Tony Fischer representing an organization calling itself the St. Francis Friends and Neighbors;

WHEREAS, as a consequence of the design differences between the 2006 Approved Project and the ABR's Preliminary Approved Project, on March 4, 2008, the architect for the Project submitted to the City a request for a Substantial Conformance Determination by the Community Development Director pursuant to the process established in Section VI of the Planning Commission Guidelines adopted by the City Council on July 15, 1997 (as amended from time to time thereafter);

WHEREAS, On April 1, 2008, the City's Environmental Analyst prepared an Addendum to the previously certified EIR with respect to the 2006 Approved Project, which Addendum evaluated the differences between the Project evaluated in the Certified Final EIR and that of the ABR Preliminary Approved Project and concluded that, in accordance with State CEQA Guidelines Section 15162, no Subsequent Negative Declaration or Environmental Impact Report was necessary or required for the ABR Preliminary Approved Project because neither the Project refinements and revisions in the ABR Preliminary Approved Project nor the discrepancy in site statistics with respect to the 2006 Approved Project involve new or potentially significant environmental impacts or any potential substantial increase in the severity of previously identified environmental impacts or effects;

WHEREAS, a public hearing was held on April 17, 2008 before the City Planning Commission (in accordance with the Commission's guidelines) in order to allow members of the Planning Commission and public to comment and to provide input to the Community Development Director regarding the Director's consideration of a substantial conformity determination for the differences between the 2006 Approved Project and the ABR Preliminary Approved Project;

WHEREAS, on April 21, 2008, the Community Development Director issued a "Substantial Conformance Determination" letter in which he determined that the ABR Preliminary Approved Project was in substantial conformance with the 2006 Approved Project;

WHEREAS, on April 28, 2008, the City Council conducted a publicly noticed site visit to the Project site which site visit was attended by six Councilmembers and lasted approximately 60 minutes; the site visit involved substantial questioning of the City's Project Planner and the Project architect and included an overview of the Project's approval process and a description of various physical and design aspects of the Project which was granted Preliminary Approval by the ABR on January 28, 2008. Questions from the City Council and Council discussion at the site visit focused primarily on the revised on-site pedestrian access and driveway referred to as the "woonerf," the connection of the underground parking areas, the re-arrangement of the residential units, the pedestrian access improvements, and the location and heights of the residential units fronting on California and Micheltorena Streets. The site visit concluded with the Councilmembers walking and touring the perimeter of the Project site, specifically California and Micheltorena Street and other Councilmembers driving around the perimeter of the site and surrounding neighborhood;

WHEREAS, on April 29, 2008, the Council of the City of Santa Barbara held the required noticed public hearing regarding the Appeal of the ABR Preliminary Approval. With respect to this Appeal, the Council received and considered all of the following: 1. the Planning Commission Staff Report for the Substantial Conformity hearing dated April 3, 2008, 2. the Appeal Letter filed by attorney Tony Fischer, 3. the Council Agenda Report (dated as of April 29, 2008) and all exhibits thereto including the minutes of the ABR and HLC hearings concerning the Project, 4. the request for a Substantial Conformity Determination submitted by Cearnal Andrulaitis LLP including the exhibits thereto, 5. the City Community Development Director's Substantial Conformity Determination dated April 21, 2008, 6. the Addendum to a Certified Environmental Impact Report dated April 1, 2008, and 7. the full set of site plans and architectural drawings for the Project submitted to the City Council by the applicant in connection with the 2006 Project Approval as well as the full set of architectural plans and drawing approved by the ABR in January 2008 as part of their Preliminary Design Approval of the Project, 8 all documents and emails submitted by members of the public in connection with the appeal of the ABR Preliminary Design Approval. In addition, the Council fully considered the Appeal hearing presentations from Staff, Appellants, the Applicant and all members of the public, such as the "Powerpoint" presentations;

WHEREAS, upon the conclusion of the April 29, 2008 City Council Appeal hearing and upon the completion of the Council discussion and Council deliberations, the City Council, exercising its independent judgment and analysis and, on the basis of the record before it, denied the Appeal. The City Council also directed the City staff to prepare written draft findings, conclusions (both factual and with respect to legal conclusions and other requirements), and policy determinations, especially with respect to the City goals and policies applicable to the City Council's hearing of the Appeal and to submit these findings, conclusions and determination to the City Council for their review and approval; and

WHEREAS, all of the documents and materials which constitute the record of proceedings upon which these findings and conclusions and this Appeal decision are made are on file at the City of Santa Barbara, Community Development Department, located at 630 Garden Street, Santa Barbara, California 93101 (in care of the Project Planner Irma Unzueta or the Plan Check/Records Supervisor acting as the custodian of record) and such records and materials are open for public inspection and copying during normal business hours upon a request of either the Project Planner (Irma Unzueta) or the Records Supervisor.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. Approval of Recitals. Each of the above-stated recitals are true and correct and each fully and accurately reflects the record and scope of the City's proceedings with respect to the Project and the City Council's determinations and considerations which went into the Council's decision to deny the ABR Appeal and the uphold the ABR Preliminary Approved Project. Such recitals are determined to be and are hereby adopted as part of the appropriate factual and legal basis for the Council's decision herein.

SECTION 2. CEQA Findings.

A. On November 21, 2006, the City Council certified the Final Environmental Impact Report (MST 2003-00827 and SCH No. 2004061105) for the Project and made the necessary environmental findings. Mitigation measures identified in the certified Final EIR were imposed as conditions of approval of the 2006 Approved Project and a Statement of Overriding Considerations was adopted in connection with the Project Approval.

B. Pursuant to state Public Resources Code (CEQA) Section 21167.2, the previously certified EIR is conclusively deemed valid because no lawsuit was filed to contest the validity of the previously certified Final EIR.

C. Based on the April 1, 2008 Addendum and taking into consideration all public comments and submittals with respect to the conclusions contained in the Addendum, in accordance with State CEQA Guidelines Sections 15162 and 15164, no Subsequent Negative Declaration or Environmental Impact Report is required in order for the City Council to deny the Appeal and for the Council to uphold the ABR's Preliminary Design Approval of the Project. This is because none of the Project refinements and revisions which have occurred as part of the ABR Preliminary Approved Project (including those corrections relating to discrepancies in site statistics with respect to the 2006 City Council's Approved Project) involve new significant impacts or any possible or potential substantial increase in the severity of previously identified environmental impacts. The Council further finds that the changes or additions to the Project from its land use approvals in 2006 to the present time are only those changes and additions

which are necessary and appropriate (and which would be expected) in the refinement of the design of the Project which refinement is anticipated by and part of the ABR design process ordained and required in SBMC Chapter 22.68 and the applicable ABR Design Review Guidelines.

SECTION 3. Affirmation of the Substantial Conformity Determination. The City Council ratifies and affirms the Substantial Conformity Determination made by the Community Development Director on April 21, 2008.

SECTION 4. Denial of Appeal. Based on the evidence and testimony in support of the ABR Preliminary Approved Project presented by City staff, representatives of the Applicant, and by the public (both documentary and otherwise), as contrasted with the evidence and testimony presented by the Appellants, the City Council finds that there is no basis for granting the Appeal. The City Council's analysis of the Project's design (including the recent revisions to that design) which received Preliminary Approval by the ABR in January 2008 clearly demonstrate that the effort and work of the ABR improved and refined the design and architecture of the 2006 Approved Project as anticipated by and required in SBMC Chapter 22.68. The Council finds, in particular, that the applicant and the ABR did especially good work in refining the design of the Project to make it more compatible with that of the immediate neighborhood, such as by emphasizing the need for more "Bungalow" style architecture and design features on the perimeters of the Project and by the need to place the lower density two and three unit buildings on the perimeters of the project adjacent to Micheltorena Street. In addition, the Council finds that the ABR and applicant also accomplished particularly good refinements to the Project by reducing the number of code modifications required to construct the Project and by reducing the disparities between some of the code requirements and the actual construction for many of the remaining code modifications. Further, Council finds that the increase and use of Open Space within the Project and the pedestrian and vehicular circulation within the Project site from that of the 2006 approved version to that of the ABR Preliminary Design version are significant and appropriate improvements in the Project.

Accordingly, for all of the foregoing reasons and based on these findings and determinations, the Appeal is denied.